

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
<b>GOVERNANCE COMMITTEE CABINET</b>	<b>20 MARCH 2014 02 APRIL 2014</b>

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
<b>REVIEW OF THE COUNCIL'S CONSTITUTION</b>	<b>LEADER</b>	<b>Maureen Wood</b>	<b>4</b>

## 1. SUMMARY AND LINK TO CORPORATE PRIORITIES

The Constitution Task Group was established in 2010 to undertake a review of the Constitution by Governance Committee. Since 2010 the Constitution Task Group has conducted annual reviews of different sections of the Constitution and submitted reports to the Governance Committee and Cabinet prior to adoption of the proposed changes by Council at the start of each new municipal year. It is intended that this review will culminate in the adoption of the revised Constitution at the start of the 2014/15 municipal year.

This current review has focused on the style and content of the Council's Minutes, Public Participation at Council meetings, and Exempt information. Following the Government's decision to pass The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 requiring recorded votes at budget meetings, the task Group considered and proposed an appropriate change to the wording to ensure future compliance.

Ensuring that the Constitution is up to date and applied effectively is a key element of the corporate governance of the Council and links to the corporate priority of being an efficient, effective and exceptional Council.

## 2. RECOMMENDATIONS

(1) That the following proposed changes to the Constitution be agreed by the Governance Committee for recommendation to Cabinet:-

(a) The proposed new Standing Order 14 appended to this report replace the current Standing Order 14.

(b) The following paragraph be added to Rule 11 Procedure Rules C. Access to Information Procedure Rules:

*"Reports containing exempt information will not remain exempt longer than is necessary and will be made public six months after the date of meeting or sooner unless the Chief Executive (or other designated officer) is of the opinion that there are overriding reasons for the information to remain exempt."*

(c) The following paragraph be added to Standing Order No. 22 Voting and Decisions:-

*"(3) There shall be recorded in the minutes of the proceedings of meetings of the Council of each member's vote for or against or abstention from voting on any decisions relating to the budget or council tax at any Budget and Council Tax setting meeting."*

(d) Provision be included on the agenda of full Council meetings for questions to be asked of any member nominated by the Council as a Member Champion.

(2) That Cabinet recommend the Council adopt the proposed changes to the Constitution with effect from the first Council meeting of the new municipal year in 2014.

(3) That the Monitoring Officer be authorised to update the Constitution to reflect the outcomes from Recommendation (1) above.

(4) That, given the level of disruption caused at Council meetings, a feasibility study be undertaken to determine the suitability of the current microphone system and to make recommendations to improve or replace the current audio system in light of impending regulation.

### **3. MAIN CHANGES AND REASONING**

#### **(a) Minutes**

The Task Group considered the style and content of the minutes of full Council.

In their discussions they considered the length and detail of the minutes and alternative methods of recording meetings such as audio and visual. The group felt strongly that decision-only minutes would be the ideal output from Council meetings but noted that taken in isolation, without an audio or visual recording to supplement them, they would not provide the full picture of the decision making process. They noted that the Council's current audio system did not allow for audio or visual recording and believed that, in the interests of openness and transparency, it was important for anybody who was not present at a meeting, but who subsequently read the minutes, to be able to fully understand how a decision was arrived at.

The Group therefore concluded that, until such time as the current audio system is considered for replacement, the minutes in their current state are fit for purpose and should continue in their current format.

#### **(b) Public Participation**

The Task Group considered the rights of members of the public to participate in the Council meetings and noted that, under the provisions of the current Constitution, members of the public had a right (under Standing Order 14) to *address* the Council and, if the subject matter was not included on the agenda, notice in writing was required.

It has for some time been customary for the Mayor, at the beginning of Council meetings, to tell the public that they have the opportunity to speak on each item, after all councillors but before Council reached its conclusions. However, although this is custom it is not included within the Constitution.

The Task Group felt that this practice should be formally included in the Constitution and that if possible members of the public should be encouraged, but not required, to put questions in writing in advance of the meeting to enable full and detailed answers to be given.

The Task Group also considered the length of time for public speaking and the order in which questions from the public are taken. They concluded that five minutes in total had proved appropriate and should be maintained. The Group also felt that it was appropriate for members of the public to be invited to speak after all councillors but before the Council reaches its conclusions. However they also felt that councillors should have a right of reply to give a personal response or explanation to a question. The Group also thought that a member of a political group should also have a right of reply on behalf of a political group.

A proposed new Standing Order 14 is appended to this report with the insertions shown in italics and in red.

### **(c) Exempt information**

The Task Group's attention was drawn to Part Four – Procedure Rules C. Access to Information Procedure Rules. The Group was informed that as part of the Council's drive towards being more open and transparent it was reducing the number of exempt reports that were taken to Cabinet or Committees. However there were occasions when this was not possible and exempt reports had to be considered.

Under the Constitution at present, when Cabinet or a Committee passes a resolution to exclude the public from a meeting it is therefore confirming that any associated reports are exempt. Such reports usually remain not for publication until further notice, however, in reality, most reports cease their need to be exempt fairly quickly. It was therefore proposed that there should be an assumption that reports would cease to be exempt after a specific period of time. It was felt that 6 months was a reasonable period, but whenever possible the period would be reduced.

The Task Group concluded that the following paragraph should be added to Rule 11 Procedure Rules C. Access to Information Procedure Rules:

“Reports containing exempt information will not remain exempt longer than is necessary and will be made public six months after the date of meeting or sooner unless the Chief Executive (or other designated officer) is of the opinion that there are overriding reasons for the information to remain exempt.”

### **(d) Recorded Votes at Budget Meetings**

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 made it mandatory for councils to amend their Standing Orders as soon as is practicable after the Regulations are in force, so as to include provisions to record votes at budget meetings.

The Task Group concluded that the following paragraph should be added to Standing Order No. 22 Voting and Decisions:-

“(3) There shall be recorded in the minutes of the proceedings of meetings of the Council of each member's vote for or against or abstention from voting on any decisions relating to the budget or council tax at any Budget and Council Tax setting meeting.”

### **(e) Guidance for Council Meetings**

The Task Group considered guidance provided by the Government to the public about their right to attend and record public meetings. The proposed amendment to the Local Audit and Accountability Act gave the Secretary of State the necessary powers to make further regulations concerning the role of members of the public and their involvement in Council and Committee meetings.

The Task Group discussed in detail the shortcomings of the current audio system which consistently caused considerable disruption at meetings due to the interference picked up from mobile phones. They concluded that there was little benefit in discussing the matter further whilst the current audio system precluded it.

However, given the level of disruption caused at Council meetings, they were strongly of the opinion that the current audio system had shortcomings and a practical solution should be found.

### **(f) Provision for questions to be asked of Member Champions**

The Task Group noted that the Council had nominated two of its members as Member Champions in recent years but that the Constitution made no provision for questions to be asked of them at meetings of full Council. They considered that this should be rectified as there was provision in the

Constitution for questions to be put to members nominated by the Council to other positions both within and outside of the Council. Consequently they felt that the relevant item on full Council agendas should be amended to read 'Questions to Representatives on Outside Bodies and Member Champions'.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

<b>FINANCIAL</b>	There are no financial implications at his stage.		
<b>LEGAL</b>	<p>The Council is committed to being as transparent as possible in how it conducts its business. In this context there is no requirement to publish exempt reports after 6 months; nevertheless if there are no good reasons why a report should remain exempt then it is good practice to do so.</p> <p>In terms of allowing members of the public to film or record public meetings we are still awaiting regulations to be published pursuant to section 40 of the Local Audit and Accountability Act 2014. We will review further our arrangements in this regard once the regulations have indeed been published.</p>		
<b>RISK</b>	Ensuring that the Constitution is up to date and applied effectively is a key element of the corporate governance of the Council. Accordingly, any failure to keep the Constitution fit for purpose could present a risk.		
<b>THE IMPACT ON EQUALITY</b>	In considering the changes to the Constitution the Task Group has regard to its impact on equality and strives to make the Council's Governance arrangements as accessible and open and transparent as possible.		
<b>OTHER (see below)</b>			
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

## BACKGROUND DOCUMENTS

Constitution

**STANDING ORDER NO. 14****Question or Address by Members of the Public**

1. Members of the public may **put a question to**, or address the Council on any matter of Council business or anything which affects the borough or its residents provided it is relevant to the Council's functions and duties.
2. Notice of the subject matter of an address must be given in writing to the Chief Executive at least six clear working days before the meeting at which it is to be raised (***i.e. if the meeting is on a Wednesday, by 5.00 pm on the Monday of the week preceding the meeting***).
3. The subject matter shall be indicated on the agenda for the meeting of the Council.
4. ***Notice of a question must be given in writing to the Chief Executive at least one clear day before the meeting at which the question is to be asked (i.e. if the meeting is on a Wednesday, by 5.00 pm on the Monday preceding the meeting)***.
5. ***A list of the questions of which notice has been given shall be circulated to those members present at the meeting.***
6. Members of the public may address the Council without notice on any matter of Council business, but if the subject matter has not been included on the agenda, it may not be discussed unless the Mayor determines that it is a matter of urgency.
7. ***A member of the public may ask a question without notice but in those circumstances there will be no requirement for a full answer to be given immediately.***
8. ***Members of the public will be invited to ask question(s) after all members have been invited to ask questions on any particular agenda items.***
9. Members of the public will be restricted to a total of five minutes during the whole meeting.
10. The Mayor shall determine whether a discussion on the matter shall take place and any response to the address **or question** may take the form of:-
  - (a) A direct oral answer, or;
  - (b) Where the desired information is contained in a publication of the Council, a reference, or;
  - (c) Where any reply cannot conveniently be given orally, a written answer shall be sent to the member(s) of the public addressing the Council **or asking a question**, and circulated to all members of the Council.
11. ***Following an address or question from a member of the public:-***
  - (a) ***A member may rise on a point of personal response or explanation;***
  - (b) ***A member of a political group may rise to respond on behalf of that group.***